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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,438	09/29/2003	Wen-Sheng Huang	PUSA030918	1695

7590 08/24/2004
Wen-Sheng Huang
58, MA YUAN WEST ST.
TAICHUNG,
TAIWAN

EXAMINER

DURAND, PAUL R

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/676,438

Applicant(s)

HUANG, WEN-SHENG

Examiner

Paul Durand

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,7,8,9,11,12,15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Liu (US 6,422,446).

In regard to claim 1, Liu discloses the invention as claimed including a nailer comprised of body 20, contact switch in the form of firing key 23, adjusting member in the form of shaft 41, trigger 31 and stepped press plate in the form of secondary trigger 32 (see Figs. 1-4 and C2,L30-64).

In regard to claims 7-9, Liu discloses the invention as claimed including a substantially shaped press plate in the form of secondary trigger 32, which has a first and second portion disposed at different location and where a first portion that is located adjacent to the body (see Fig. 2).

In regard to claim 11 and 12, Liu discloses the invention as claimed including an adjusting member in the form of shaft 41, adjustment slot 311 and a contact switch in the form of firing key 23, which is adjacent the adjusting slot (see Figs. 1 and 2).

In regard to claims 15 and 16, Liu discloses the invention as claimed including a restoring device in the form of spring 43 and adjusting member 41, with grooves 414, "C" shaped ring 45 (see Fig. 2).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-6,10,13,14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu in view of Hsu (US 6,581,814).

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Liu discloses the invention substantially as claimed except for ~~he~~ use of an adjusting mechanism incorporated into the housing sidewall instead of a trigger based control means. However, Hsu teaches that it is old and well known in the art to provide a tool with a housing 14 with through holes 141, adjusting slots 142 and a shoulder (no number given, but located between the two slots), retaining member 312, press plate 42, trigger 40, with through holes 41, with an adjusting member 32 that protrudes through the wall and is slidably adjusted into the slots by rotating the member for the purpose of controlling the various drive modes of a tool (see Figs. 1,2,4 and C2,L29 – C3,L62). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Liu with the tool wall based adjustment means as taught by Hsu for the purpose of controlling the various drive modes of a tool

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Perkins et al, Austin, Yang, Lee, Wolfberg and Wang et al have been cited to how devices having similar structure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 703-305-4962. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Durand
August 19, 2004

EUGENE KIM
PRIMARY EXAMINER